

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Z PAYMENTS SOLUTION CORP.,

Plaintiff,

v.

FISERV, INC. and FIRST DATA
MERCHANT SERVICES LLC,

Defendants.

AFFIDAVIT OF
MICHAEL K. CHONG, ESQ.

1:23-cv-03702-AS

Michael K. Chong, being duly sworn upon his oath deposes and states:

1. I am an attorney at law admitted to practice before the United States District Court for the Southern District of New York, and I am the attorney for plaintiff Z PAYMENTS SOLUTION CORP. (hereinafter referred as "Plaintiff") in this action. I have personal knowledge of the facts set forth in this Affidavit, which I make in support of a Motion for Leave to Withdraw as Counsel for Plaintiff.
2. I was retained to represent Plaintiff in this action on an hourly fee basis. Plaintiff has failed to pay their legal bill. I have made numerous requests for payment of the outstanding legal bill, to no avail.
3. Further, there has also been a general breakdown in communication with Plaintiff which prevents me from effectively representing them in this litigation.
4. I have made multiple attempts to contact Plaintiff to provide me with the information and other documents concerning this matter and to prepare responses to discovery, to no avail.
5. I have made multiple attempts to reach out to Plaintiff to discuss preparation of the Amended Complaint, to no avail.
6. Specifically, on or about September 28, 2023, my office emailed Plaintiff a request for additional documentation and information concerning my preparation of amending the Complaint

in this matter, to no avail.

7. I have made multiple attempts to contact Plaintiff to work on Plaintiff's Responses to Defendants' Discovery Requests to no avail. Specifically, on October 20, 2023, my office emailed Plaintiff Defendants' Discovery Requests and since that time my office and I have reached out to Plaintiff numerous times to contact us to work on responses to no avail.

8. In addition, my office requested documents and information concerning discovery in this matter to no avail. My office sent multiple follow up emails on October 3, 2023, and October 27, 2023 and thereafter, to no avail. I also made phone calls to Plaintiff to no avail.

9. Based on the above, I have sent an email to Plaintiff Z PAYMENTS SOLUTION CORP. advising that I intend to seek the Court's permission to withdraw as their counsel based on the above.

10. In sum, Plaintiff is unresponsive to my communications and requests for information, documentation, and for payment of their legal bill. Under these circumstances, I am unable to effectively represent Plaintiff's interests, and it will be a substantial financial hardship to be required to continue representing Plaintiff without payment for my legal services.

11. For all of the above reasons, I respectfully request that the Court grant my application to withdraw as counsel for plaintiff Z PAYMENTS SOLUTION CORP. in this matter.

12. Plaintiff is being provided with a copy of my application to withdraw as counsel, with the Notice of Motion, Affidavit and proposed Order being sent to Plaintiff by email, the established method of communication between my office and Plaintiff.

Date: November 10, 2023

Law Offices of Michael K. Chong, LLC

By: *s/ Michael K. Chong*
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